

by themselves to consider the Evidence leaving the Lord high steward, who sits in Court till they Return. The Peers should continue together (as other Jurors) till all or the Greatest part of them be agreed in their opinion Coke 3 Inst. 30. Fel. Rep. 56. Which is commonly but Improperly, termed their Verdict, for it is properly called *Judicium parium*, because they give their Judgment only upon their Honor and Allegiance to the King Coke ibid. 2 Inst. 49. A Question being Moved among the Judges whether if the Lords Agree not about their Verdict that day, they are necessarily to keep together all Night? Some of the Judges held, that the peers in such a case were not to separate till they came to an Agreement others thought that they might go to their Respective houses, because of the great trust Deposited and presumed to be in them Fel. Rep. 57

The peers who are the tryers, in case of Difficulty, may confer with the high steward, or the Judges in open court in presence of the prisoner, whose Interest it is to see that any case or question be rightly put or stated. But the high steward is not to speak, the peers in absence of the prisoner Fel. Rep. 57. Lord Solomon try. 54 Except when they Deliver their Verdict ibid. Nor are they allowed to call for any new witnesses after the Evidence is closed Fel. Rep. ibid. If his grace desire any of the Judges to go to the Lords, they should go, but not Deliver their private opinion in answer to any question put to them by the Lords, without a conference with the rest of the Judges openly in court, Notwithstanding the provision in the case of the Earl of Castlehaven Fel. Rep. 54. However it was agreed by the Judges, that if the Lord high steward should in face of court Demand any of their opinions in any thing (tho in absence of the prisoner) they are to answer the Question they are called to assist the court, and it being referred to the Discretion of the high steward to put questions

such a case Fel. Rep. 54.

When a Majority of the Lords are Agreed in their opinion on they Return to the place of trial, and take their seats. The Lord high steward asks of them one by one in order beginning with the Youngest or Lowest, Publicly (but in absence of the Prisoner) *Et sic* guilty of the treason whereof he hath been indicted and arraigned, or not guilty, who standing up Uncovered and laying his Right hand upon his breast answers either guilty, or not guilty upon my honor. The Lord high steward having no Authority to vote himself but only to see the law observed and fulfilled as a Judge, Numbers up the opinions of the Peers; and the prisoner is acquitted or found guilty, according to the Determination of the Majority of Voices; so be, that twelve or more peers agree Coke 3 Inst. 30. *Stamp. pl. Cor. 153. 2. Fel. Rep. 56.* If the prisoner be Returned not guilty, it is Recorded thus, *Super quo & Ceteri Antedicti pares Instantes Super fidelitatis & Ligantibus Dominis Regi Debitis per prefatum fonschallum ab inferioribus paribus usque ad Supremum Separatum Publicis Examinati Dicunt, quod &c. non est Culpa.* If he turns guilty, it is Recorded thus *Super quo &c. & Ceteri Antedicti pares Instantes Super fidelitatis & Ligantibus Dominis Regi Debitis, per prefatum fonschallum ab inferioribus paribus usque ad Supremum Separatum Publicis Examinati Dicunt, quod &c. est Culpa.*

After the peers have given their Verdict, and the same hath been Recorded, the prisoner is brought again to the Bar and acquainted therewith, by the Lord high steward who doth rehearse the Verdict, and if the prisoner be found not guilty gives Judgment that he shall be Discharged of the Crime whereof he had been indicted, paying his fees Fel. Rep. 57. If the prisoner be found guilty, the Lord high steward asks him what he hath to say why Judgment of Death should not be given upon him according to law? If the prisoner hath nothing to say or pleas in Arrest of Judgment, or why Judgment should not pass upon him according to law, or